

2:07-CV-0030-MHT

PLAINTIFF'S RESPONSE TO DEFENDANT'S WRITTEN
REPORT.

2007 APR 10 A 10:15

DEBRA P. HACKETT, CL.
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA.

COMES NOW THE PLAINTIFF JAMES L. BOYINGTON, IN RESPONSE TO THE DEFENDANT'S WRITTEN REPORT SUBMITTED ON OR ABOUT MARCH 20, 2007.

IN RESPONSE TO PETITIONER'S "LEGITIMATE" CLAIMS THE DEFENDANT'S CLAIM THAT THERE EXISTED NO "ACTUAL" INJURIES TO VALIDATE THE PLAINTIFF'S CLAIMS PREVIOUSLY SET FORTH.

ENCLOSED, SUBMITTED AS EXHIBIT'S A, B & C ARE WRITTEN SWORN AFFIDAVITS BY INDIVIDUALS WHOM WERE INCARCERATED AND PRESENT DURING THE TIME OF PLAINTIFF'S FILING OF HIS COMPLAINT,

THE ALLEGATIONS SET-FORTH IN THE PLAINTIFF'S COMPLAINT WERE, AND ARE TRUE & CORRECT AND ARE ALSO ABSOLUTE IN LEGITIMACY.

IN OBTAINING SAID AFFIDAVITS THE PLAINTIFF NOT ONLY RISK THE WELL BEING OF HIS OWN SELF, BUT ALSO THE SAFETY OF THOSE WHOM WANTED CORRECTION OF THE VIOLATIONS BY RETALIATION OF THE PRISON OFFICIALS. THE PLAINTIFF'S BASIS FOR SUCH ARE STATED AS FOLLOWS.

1) ON JANUARY 23, 2007, BY REQUEST OF OTHER INMATES PRESENT AT THE FACILITY DURING SAID

OCCURRENCE. THE PLAINTIFF FORMULATED / FORMATED APPROPRIATE "SWORN - AFFIDAVITS TO BE SIGNED AND NOTARIZED BY INDIVIDUALS WHOM WERE BEING SUBJECTED TO THE SAME CONDITIONS AND VOLUNTARILY WISHED TO PARTICIPATE IN SAID ACTION FOLLOWING THEIR READING SAID COMPLAINTS

IN DOING SO THE PLAINTIFF THE PLAINTIFF WAS CONFRONTED BY NUMEROUS INMATES WHOM WISHED TO BE INVOLVED. AMONG THE 40 TO 50 PARTICIPANTS THE THREE (3) INDIVIDUALS WHOM ARE LISTED ON THE AFFIDAVITS ENCLOSED WITHIN WERE THE FIRST TO APPROACH THE FACILITY'S NOTARY FOR NOTARIZATION OF SAID DOCUMENTS. WITHIN THIRTY (30) MINUTES OF THESE THREE (3) INMATES DOCUMENTS BEING NOTARIZED THEY WERE SUMMONED TO THE WARDEN'S OFFICE FOR QUESTIONING WITH ALLEGATIONS OF RETALIATION BEING TAKEN SHOULD THE MATTER BE FURTHER PURSUED. IN TAKING SUCH ACTION THE FACILITY'S AUTHORITY SUCCEEDED IN DISSUADING THE REMAINING PARTICIPANTS TO FURTHER PURSUE THEIR EXERCISING OF THEIR CONSTITUTIONAL RIGHTS IN PURSUANCE OF

ON FEBRUARY 8, 2007 THE PETITIONER WAS SUMMONED TO THE WARDEN'S OFFICE AND INFORMED BY LEE POSEY DANIEL'S THAT THE PLAINTIFF WOULD BE FORCED TO SPEND THE REMAINDER OF HIS SENTENCE

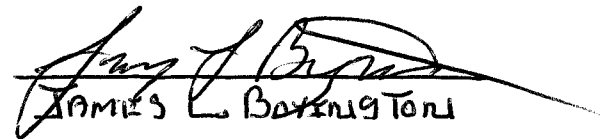
IN SOLITARY CONFINEMENT FOR HIS ACTIONS. THE PLAINTIFF WAS THEN HANDCUFFED AND TRANSPORTED TO THE KELBY CORRECTIONAL CENTER WHERE HE WAS PLACED IN A SIX (6) X NINE (9) SOLITARY CELL AND REMAINED THERE UNTIL HIS RELEASE ON FEBRUARY 19, 2007. THE PLAINTIFF SUFFERS FROM SEVERE ANXIETY ATTACKS IN WHICH HE HAS BEEN TREATED FOR FOR OVER TWENTY (20) YEARS BUT HAD SUCCEEDED IN DELETION OF MEDICATION APPROXIMATELY TWO YEARS PRIOR TO THIS RETALIATION MOVE BUT WAS FORCED TO CONTINUE TREATMENT DUE TO ACTIONS INTENTIONALLY INFLICTED BY THE DEFENDANTS.

THEREFORE, AGAIN INFLICTING SUFFERING TO THE PLAINTIFF.

PLAINTIFF IS NOT FINANCIALLY CAPABLE OF RETAINING ADEQUATE COUNSEL FOR INVESTIGATIVE PURPOSE'S IN SUBSTANTIATION OF HIS COMPLAINT THEREFORE REQUESTING FOR THIS HONORABLE COURT TO APPOINT SAID IN PURSUANCE OF JUSTICE. THE INTENTIONAL HARM INFLICTED BY THE DEFENDANTS IN RETALIATION FOR THE PLAINTIFF'S EXERCISING HIS CONSTITUTIONAL RIGHTS FOR BEING SUBJECTED TO THE INHUMANE / UNSANITARY CONDITIONS SHOW NO OTHER THAN MALICIOUS INTENT BY THE DEFENDANTS,

PREMISES CONSIDERED, PLAINTIFF REQUESTS TO BE APPOINTED ASSISTANCE FOR INVESTIGATIVE PURPOSE'S, OR, TO BE ALLOCATED ADEQUATE TIME TO SEEK COUNSEL WHOM WILL ACCEPT HIS CASE ON A CONTINGENCY BASIS DUE TO HIS INDIGENCY AND CURRENT RELEASE INTO SOCIETY AFTER FORTY-ONE (41) MONTHS OF INCARCERATION.

RESPECTFULLY SUBMITTED,


JAMES L. BOYINGTON

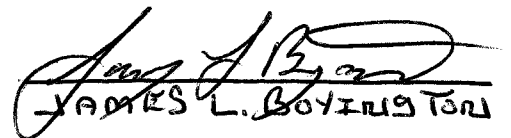
SWORN OATH

I, JAMES L. BOYINGTON, do SOLEMNLY SWEAR, UNDER PENALTIES OF PERJURY, THAT THE CONTENTS WITHIN ARE TRUE & CORRECT.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE & CORRECT COPY HAS BEEN FORWARDED TO THE COUNSEL OF DEFENDANTS AT : ALABAMA DEPARTMENT OF CORRECTIONS
LEGAL - DIVISION
301 SOUTH RIPLEY STREET
P.O. BOX 301501
MONTGOMERY, AL. 36130-1501

DONE THIS 8TH DAY OF APRIL 2007.


JAMES L. BOYINGTON

[COUNTY OF MONTGOMERY]
[STATE OF ALABAMA]

DATE: _____

SWORN AFFIDAVIT

BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE AT LARGE, PERSONALLY APPEARED BEFORE ME, Ottis Wright, WHOM BEING KNOWN TO ME BY PRESENTING VALID IDENTIFICATION, AND BEING FIRST DULY SWORN IN ACCORD WITH LAW, did depose and state as follows:

- (1) MY NAME IS, Ottis Wright, I AM OVER THE AGE OF TWENTY-ONE (21), AND BOTH COMPETENT, AS WELL AS WILLING TO TESTIFY TO THE FACTS CONTAINED HEREIN.
 - (2) I WAS TRANSFERRED TO THE MONTGOMERY PRE-RELEASE CENTER ON NOV-30-006, AND HAVE REMAINED HERE UNTIL CURRENT DATE.
 - (3) I HAVE THOROUGHLY READ, AND FULLY UNDERSTAND THE ALLEGATIONS SET-FORTH IN JAMES L. BOYINGTON'S CIVIL ACTION, CASE NO: 2:07-CV-30-MHT, AS I AM BEING SUBJECTED TO THE SAME UNSANITARY AND/OR INHUMANE CONDITIONS.
 - (4) SINCE THE TIME OF MY ARRIVAL AT THIS FACILITY THE LAW LIBRARY HAS NOT BEEN OPENED FOR ACCESSIBILITY TO THE INMATES, AND IS BEING UTILIZED BY THE STAFF / PERSONNEL FOR STORAGE OF PERSONAL BELONGINGS AND FACILITY HARDWARE.
 - (5) THE INHUMANE / UNSANITARY CONDITIONS HAVE BEEN PREVIOUSLY ADDRESSED, BUT TO NO AVAIL.
- NOTARY PUBLIC: [Signature] done THIS 24 day OF JANUARY 2007. My Commission
My Commission Expires: Expires May 6, 2010

RESPECTFULLY SUBMITTED, Ottis Wright
AFFIANT / DEPOSEE

* EXHIBIT A *

[COUNTY OF MONTGOMERY]
[STATE OF ALABAMA]

DATE: 1/24/07

SWORN AFFIDAVIT

BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE AT LARGE, PERSONALLY APPEARED BEFORE ME, Larry B McCutcheon, WHOM BEING KNOWN TO ME BY PRESENTING VALID IDENTIFICATION, AND BEING FIRST DULY SWORN IN ACCORD WITH LAW, did depose and STATE AS FOLLOWS:

- (1) MY NAME IS, Larry B McCutcheon, I AM OVER THE AGE OF TWENTY-ONE (21), AND BOTH COMPETENT, AS WELL AS WILLING TO TESTIFY TO THE FACTS CONTAINED HEREIN.
 - (2) I WAS TRANSFERRED TO THE MONTGOMERY PRE-RELEASE CENTER ON NOV, 15, 2006, AND HAVE REMAINED HERE UNTIL CURRENT DATE.
 - (3) I HAVE THOROUGHLY READ, AND FULLY UNDERSTAND THE ALLEGATIONS SET FORTH IN JAMES L. BOYINGTON'S CIVIL ACTION, CASE NO: 2:07-CV-30-MHT, AS I AM BEING SUBJECTED TO THE SAME UNSANITARY AND/OR INHUMANE CONDITIONS.
 - (4) SINCE THE TIME OF MY ARRIVAL AT THIS FACILITY THE LAW LIBRARY HAS NOT BEEN OPENED FOR ACCESSIBILITY TO THE INMATES, AND IS BEING UTILIZED BY THE STAFF / PERSONNEL FOR STORAGE OF PERSONAL BELONGINGS AND FACILITY HARDWARE.
 - (5) THE INHUMANE / UNSANITARY CONDITIONS HAVE BEEN PREVIOUSLY ADDRESSED, BUT TO NO AVAIL.
- NOTARY PUBLIC: [Signature] done THIS 24 day OF JANUARY 2007. My Commission
MY COMMISSION EXPIRES: Expires May 6, 2010

RESPECTFULLY SUBMITTED: Larry B McCutcheon
AFFIRANT / DEPOSEE

* EXHIBIT B *

[COUNTY OF MONTGOMERY]
[STATE OF ALABAMA]

DATE: _____

SWORN AFFIDAVIT

BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE AT LARGE, PERSONALLY APPEARED BEFORE ME, Terry D. Lacey, WHOM BEING KNOWN TO ME BY PRESENTING VALID IDENTIFICATION, AND BEING FIRST DULY SWORN IN ACCORD WITH LAW, did depose and STATE AS FOLLOWS:

- (1) MY NAME IS, Terry D. Lacey, I AM OVER THE AGE OF TWENTY-ONE (21), AND BOTH COMPETENT, AS WELL AS WILLING TO TESTIFY TO THE FACTS CONTAINED HEREIN.
- (2) I WAS TRANSFERRED TO THE MONTGOMERY PRE-RELEASE CENTER ON 12-1-06, AND HAVE REMAINED HERE UNTIL CURRENT DATE.
- (3) I HAVE THOROUGHLY READ, AND FULLY UNDERSTAND THE ALLEGATIONS SET FORTH IN JAMES L. BOYINGTON'S CIVIL ACTION, CASE NO: 2:07-CV-30-MHT, AS I AM BEING SUBJECTED TO THE SAME UNSANITARY AND/OR INHUMANE CONDITIONS.
- (4) SINCE THE TIME OF MY ARRIVAL AT THIS FACILITY THE LAW LIBRARY HAS NOT BEEN OPENED FOR ACCESSIBILITY TO THE INMATES, AND IS BEING UTILIZED BY THE STAFF / PERSONNEL FOR STORAGE OF PERSONAL BELONGINGS AND FACILITY HARDWARE.
- (5) THE INHUMANE / UNSANITARY CONDITIONS HAVE BEEN PREVIOUSLY ADDRESSED, BUT TO NO AVAIL.

NOTARY PUBLIC: [Signature] done THIS 24 day OF JANUARY 2007.

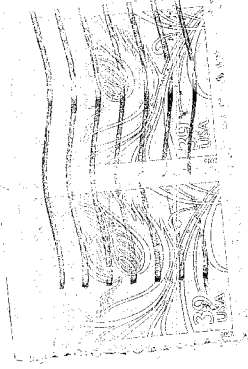
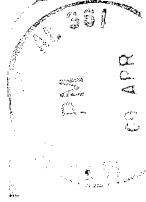
MY COMMISSION EXPIRES: My Commission Expires May 6, 2010

RESPECTFULLY SUBMITTED, [Signature]

AFFIDANT / DEPOSEE

* EXHIBIT C *

JAMES L. BOYINGTON
37036 HESTER'S STORE RD.
RED-LEVEL, AL. 36474



OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
P.O. Box 711
MONTGOMERY, AL 36101-0711